

REMARKS

Claims 1 through 12 are currently pending in the application.

Claims 2 and 4 through 12 are withdrawn from consideration as being directed to a non-elected invention.

Claims 1 and 3 currently stand rejected.

This amendment is in response to the Final Office Action of April 23, 2003.

35 U.S.C. § 101 Double Patenting Rejection

Claims 1 and 3 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1 and 3 of prior U.S. Patent 6,316,824 (hereinafter referred to as the '824 patent). Applicants respectfully traverse this rejection, as hereinafter set forth.

Applicants submit that a reliable test for statutory double patenting under 35 U.S.C. § 101 is whether a claim in the application can be literally infringed without literally infringing a corresponding claim in the patent. Is there an embodiment of the invention that falls within the scope of one claim, but not the other? If there is such an embodiment of the invention, then identical subject matter is not defined by both claims and statutory double patenting under 35 U.S.C. § 101 does not exist. *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

Applicants submit that in the present instance, no statutory double patenting under 35 U.S.C. § 101 exists between the presently claimed invention of amended independent claims 1 and 3 of the present application and independent claims 1 and 3 of the '824 patent. Further, in presently amended independent claims 1 and 3 of the present application an embodiments of the inventions are claimed having an element of the invention calling for "a portion of each of the plurality of lead fingers formed for contacting a circuit of said circuits of said substrate" whereas the embodiments of the inventions set forth in claims 1 and 3 of the '824 patent do not. Accordingly, no statutory double patenting under 35 U.S.C. § 101 exists between the embodiments of the inventions claimed in presently amended independent claims 1 and 3 of the present application and claims 1 and 3 of the '824 patent. Therefore, claims 1 and 3 are allowable.

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Applicants request entry of this amendment for the following reasons:

The amendment is timely filed.

The amendment clearly places the application in condition for allowance.

The amendment does not require any further search or consideration.

Applicants request the allowance of claims 1 and 3 and the case passed for issue.

Respectfully submitted,



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